44 p. ✓

MONTANA LEGISLATIVE HISTORY

Chapter 239 19 93

Bill H _____ S 68 Original bill & history ✓ C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	3-9	C	Hearing Date(s)	1-12	C
		C		1-27	C
		C			C
		C			C
Date Out	3-10	C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

2/03	SIGNED BY GOVERNOR CHAPTER NUMBER 14 EFFECTIVE DATE: 10/01/93		

SB 67 INTRODUCED BY YELLOWTAIL

REVISE LAWS CONCERNING POWERS AND DUTIES OF DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES AND DISPOSITION OF FEES FOR SOLID WASTE MANAGEMENT

BY REQUEST OF ENVIRONMENTAL QUALITY COUNCIL

12/28	INTRODUCED		
1/02	REFERRED TO NATURAL RESOURCES		
1/04	FIRST READING		
1/08	HEARING		
1/14	COMMITTEE REPORT—BILL PASSED		
1/15	2ND READING PASSED	31	18
1/16	3RD READING PASSED	32	17
	TRANSMITTED TO HOUSE		
1/18	FIRST READING		
1/18	REFERRED TO NATURAL RESOURCES		
1/22	HEARING		
1/25	COMMITTEE REPORT—BILL CONCURRED		
1/27	2ND READING CONCURRED	80	18
1/29	3RD READING CONCURRED	83	13
	RETURNED TO SENATE		
2/05	SIGNED BY PRESIDENT		
2/09	SIGNED BY SPEAKER		
2/09	TRANSMITTED TO GOVERNOR		
2/13	RETURNED TO SENATE WITH GOVERNOR'S AMENDMENTS		
2/15	2ND READING GOVERNOR'S AMENDMENTS CONCURRED	49	0
2/16	3RD READING GOVERNOR'S AMENDMENTS CONCURRED	49	0
	TRANSMITTED TO HOUSE		
3/08	2ND READING GOVERNOR'S AMENDMENTS CONCURRED	94	4
3/10	3RD READING GOVERNOR'S AMENDMENTS CONCURRED	92	7
	RETURNED TO SENATE		
3/16	SIGNED BY PRESIDENT		
3/16	SIGNED BY SPEAKER		
3/17	TRANSMITTED TO GOVERNOR		
3/22	SIGNED BY GOVERNOR CHAPTER NUMBER 145 EFFECTIVE DATE: 07/01/93		

SB 68 INTRODUCED BY BLAYLOCK

REMOVE TERMINATION OF GOVERNMENTAL TORT LIABILITY LIMITS

BY REQUEST OF DEPARTMENT OF ADMINISTRATION

12/28	INTRODUCED
1/02	REFERRED TO JUDICIARY
1/04	FIRST READING
1/04	FISCAL NOTE REQUESTED
1/08	FISCAL NOTE RECEIVED
1/11	FISCAL NOTE PRINTED
1/12	HEARING
1/28	COMMITTEE REPORT—BILL PASSED AS AMENDED

1/29	2ND READING PASSED	46	1
1/30	3RD READING PASSED	40	2
	TRANSMITTED TO HOUSE		
2/01	FIRST READING		
2/01	REFERRED TO JUDICIARY		
3/09	HEARING		
3/12	COMMITTEE REPORT—BILL CONCURRED		
3/17	2ND READING CONCURRED	91	6
3/19	3RD READING CONCURRED	90	8
	RETURNED TO SENATE		
3/24	SIGNED BY PRESIDENT		
3/26	SIGNED BY SPEAKER		
3/29	TRANSMITTED TO GOVERNOR		
4/01	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 239		
	EFFECTIVE DATE: 04/01/93		

SB 69 INTRODUCED BY BLAYLOCK

ELIMINATE PARTY AFFILIATION REQUIREMENT ON CAMPAIGN MATERIAL

12/29	INTRODUCED		
1/02	REFERRED TO STATE ADMINISTRATION		
1/04	FIRST READING		
1/08	HEARING		
1/13	COMMITTEE REPORT—BILL NOT PASSED		
1/13	ADVERSE COMMITTEE REPORT ADOPTED	31	17
1/13	MOTION FAILED TO RECONSIDER ADOPTION OF ADVERSE COMMITTEE REPORT	20	28

SB 70 INTRODUCED BY B. BROWN

PROHIBIT COURT DISPOSITION OF TROUBLED YOUTH REQUIRING DEPARTMENT OF FAMILY SERVICES TO SPEND MONEY

BY REQUEST OF DEPARTMENT OF FAMILY SERVICES

12/29	INTRODUCED		
1/02	REFERRED TO JUDICIARY		
1/04	FIRST READING		
1/04	FISCAL NOTE REQUESTED		
1/08	FISCAL NOTE RECEIVED		
1/08	FISCAL NOTE PRINTED		
1/15	HEARING		
1/28	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/29	2ND READING PASSED	46	1
1/30	3RD READING PASSED	41	1
	TRANSMITTED TO HOUSE		
2/01	FIRST READING		
2/01	REFERRED TO JUDICIARY		
3/10	HEARING		
3/17	COMMITTEE REPORT—BILL CONCURRED		
3/29	2ND READING CONCURRED	90	7
3/31	3RD READING CONCURRED	94	5
	RETURNED TO SENATE		
4/06	SIGNED BY PRESIDENT		
4/07	SIGNED BY SPEAKER		
4/13	TRANSMITTED TO GOVERNOR		
4/16	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 362		
	EFFECTIVE DATE: 04/16/93		

SENATE BILL NO. 68

INTRODUCED BY BLAYLOCK
BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

IN THE SENATE

JANUARY 2, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
JANUARY 4, 1993	FIRST READING.
JANUARY 28, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 29, 1993	PRINTING REPORT.
	SECOND READING, DO PASS.
JANUARY 30, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 40; NOES, 2.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 1, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 12, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 17, 1993	SECOND READING, CONCURRED IN.
MARCH 19, 1993	THIRD READING, CONCURRED IN. AYES, 90; NOES, 8.
MARCH 22, 1993	RETURNED TO SENATE.

IN THE SENATE

MARCH 22, 1993	RECEIVED FROM HOUSE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

SENATE BILL NO. 68

INTRODUCED BY BLAYLOCK

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE TERMINATION OF THE LIMITATION ON GOVERNMENTAL TORT LIABILITY; AMENDING SECTION 9, CHAPTER 22, SPECIAL LAWS OF JUNE 1986; SECTION 1, CHAPTER 228, LAWS OF 1987; AND SECTION 1, CHAPTER 803, LAWS OF 1991; REPEALING SECTION 3, CHAPTER 22, SPECIAL LAWS OF JUNE 1986; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 9, Chapter 22, Special Laws of June 1986, is amended to read:

"Section 9. **Effective dates ---~~termination--date~~.** This act is effective on passage and approval~~,--except-that section-3-is-effective-July-1,-1987. Sections--1--and--2--of this-act-terminate-on-June-30,-1987.~~"

Section 2. Section 1, Chapter 228, Laws of 1987, is amended to read:

"Section 1. Section 9, Chapter 22, Special Laws of June 1986, is amended to read:

"Section 9. **Effective dates ---~~termination--date~~.** This act is effective on passage and approval~~,--except-that section-3-is-effective-July-1,~~ 1991. Sections--1--and--2--of this-act-terminate-on-June-30, 1991.~~""

Section 3. Section 1, Chapter 803, Laws of 1991, is amended to read:

"Section 1. Section 1, Chapter 228, Laws of 1987, is amended to read:

"Section 1. Section 9, Chapter 22, Special Laws of June 1986, is amended to read:

"Section 9. **Effective dates ---~~termination-date~~.** This act is effective on passage and approval~~,--except--that section--3--is-effective-July-1,-1991~~ 1993. Sections-1-and-2 ~~of-this-act-terminate-on-June-30,-1991~~ 1993.~~"""

NEW SECTION. **Section 4.** Repealer. Section 3, Chapter 22, Special Laws of June 1986, is repealed.

NEW SECTION. **Section 5.** Effective date. [This act] is effective on passage and approval.

-End-

SB 68
INTRODUCED BILL

BILL NO	REFERRED	HEARING	OTHER CONSIDERATION DATES	EXECUTIVE ACTION/DATE/VOTE	REREFERRED	DATE READ
SB0014	SWIFT, BERNIE		ALLOW FIREARMS USE BY CHILD UNDER 14 IF ACCOMPANIED BY SPECIFIED INDIVIDUAL			
	12/23	1/05	1/06	PASS AS AMENDED 1-7		1/07
SB0019	BLAYLOCK, CHET		REVISE EXEMPTIONS FROM WRONGFUL DISCHARGE ACT			
	12/23	1/07		DO PASS 1-13		1/14
SB0023	AKLESTAD, GARY		REVISE LAW ON REMOVAL OF CHILDREN FROM THE HOME IN CASES OF ABUSE OR NEGLECT			
	12/23	1/15		DO PASS 2-16		2/16
SB0029	TOWE, TOM		PENALTY FOR GANG RAPE			
	12/23	1/06		PASS AS AMENDED 1-13		1/14
SB0037	TOWE, TOM		CREATE OFFENSE OF STALKING AND PROVIDE FOR RESTRAINING ORDERS			
	12/23	1/18		PASS AS AMENDED 1-25		1/26
SB0041	BURNETT, JIM		REVISE LAWS ON REMOVAL OF CHILD FROM HOME FOR ABUSE OR ENDANGERMENT			
	12/23	1/29	2/16	ADVERSE RPT ADOPT 2-19		2/19
SB0042	HARP, JOHN		CLARIFY SERVICE OF PROCESS IN ACTIONS AGAINST THE STATE			
	12/23	1/05		DO PASS 1-5		1/05
SB0046	HALLIGAN, MIKE		UNIFORM PARTNERSHIP ACT			
	12/23	1/12		PASS AS AMENDED 1-29		1/29
SB0055	TOWE, TOM		VEHICLE SEIZURE OR FORFEITURE FOR 3RD OFFENSE DRIVING WITHOUT INSURANCE			
	1/05	1/19		TABLED ON 01/28		
SB0064	DOHERTY, STEVE		EXEMPT ATTORNEYS' EMPLOYEES FROM PROCESS SERVER REGISTRATION REQUIREMENTS			
	1/02	1/12		PASS AS AMENDED 1-13		1/14
SB0068	BLAYLOCK, CHET		REMOVE TERMINATION OF GOVERNMENTAL TORT LIABILITY LIMITS			
	1/02	1/12		PASS AS AMENDED 1-28		1/28
SB0070	BROWN, BOB		COURT DISPOSITION OF TROUBLED YOUTH REQUIRING DEPT. FAM. SERV. TO SPEND $			
	1/02	1/15		PASS AS AMENDED 1-28		1/28

MINUTES

MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Sen. Bill Yellowtail, on January 12, 1993, at 10:05 a.m.

ROLL CALL

Members Present:
Sen. Bill Yellowtail, Chair (D)
Sen. Steve Doherty, Vice Chair (D)
Sen. Sue Bartlett (D)
Sen. Chet Blaylock (D)
Sen. Bob Brown (R)
Sen. Bruce Crippen (R)
Sen. Eve Franklin (D)
Sen. Lorents Grosfield (R)
Sen. Mike Halligan (D)
Sen. David Rye (R)
Sen. Tom Towe (D)

Members Excused: Sen. Harp

Members Absent: NONE

Staff Present: Valencia Lane, Legislative Council
Rebecca Court, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:	SB 46
	SB 68
	SB 64
Executive Action:	NONE

HEARING ON SB 46

Opening Statement by Sponsor:
Senator Halligan, District 29, told the Committee SB 46 repeals the uniform partnership act. The uniform partnership act governs the creation of partnerships, establishes what the nature of the business organization is and provides some rules with respect to the rights and obligations of the partners.

Proponents' Testimony:

file with the Secretary of the State to create a presumption as to who has authority and then verify with the Secretary of State. Banks will require partnerships to file with the Secretary of State so they know who has authority and continue to have all the partners sign so they would receive the personal guarantees of all partners.

Senator Crippen questioned Professor Bahls about the sale and purchasing of partnership property. The existing statute provides partnership property held as tenency in partnership. Tenancy in partnership is subject to the dissolution rules of the partnership statute. If a partner sells, it is a sale of capital assets. The ownership interest of SB 46 continues with the common law that interest is personal property. The ownership interest would be a capital asset. The sale of partnership interest, is a sale of a capital asset.

Senator Towe asked for an explanation of page 8 and page 22. Professor Bahl replied the reference to the certified copy of the filed statement, refers to the filed statement with the Secretary of State. Partners need to file with the Secretary of the State first, then the county, with respect in filing business documents and documents relating to personnel property. With respect to real property, it is still appropriate to file with the county. The bank would be advised to verify a certified copy most recently filed with the Secretary of State. Under SB 46 we would have commercial certainty of who has authority by requiring a filing.

Senator Grosfield questioned the cost of the filing fee and the waiting period. Senator Bahls told the Committee the public is not assumed to have notice of the filing until 90 days after the filing. Senator Jacobsen stated the range of fees would be $15 to $20. The fees would increase over time.

Closing by Sponsor:
Senator Halligan closed on SB 46.

HEARING ON SB 68

Opening Statement by Sponsor:
Senator Blaylock, District 43, stated from 1889 till 1972 Montana could not be sued unless given permission. In 1972 it was adopted in the Constitution the right to sue if there was negligence on part of an employee of the State of Montana that had caused serious accidents. Because of the enormous exposure of roads in Montana the suits came in and the settlements were large. Montana could not afford to continue this kind of thing. Rather than do away with what was in the Constitution, the Legislators added a sunset and put limits on what the state was liable for; $700,000 per person; and $1,500,000 if more than one person is involved. SB 68 repeals the sunset and would make these limits and this law permanent. SB 68 does not prevent

future legislators to raise or lower these limits. Senator Blaylock urges your favorable consideration of SB 68.

Proponents' Testimony:
Brett Dahl, Department of Administration, stands in support of SB 68. Mr Dahl stated the purpose of SB 68 seeks to remove the termination date on the existing courts liability limits which was established in 1986 by the Legislature. The removal of the termination date allows the limits to continue indefinitely, but doesn't preclude interested parties from seeking to change limits in the future. The limits are important to the cities, counties and Montana because we self insure. Many of the services provided by the state include operating prisons and health care facilities. Law enforcement regulatory activities are virtually uninsurable so what these limits would do is reduce the uncertainty in funding these risks. If there are increases in the limits it could have a significant potential financial impact on the self insurance fund. Mr. Dahl urges the Committee to adopt SB 68 in the present form.

Alec Hansen, General Manager of the Montana Municipal Insurance Authority, operates a self insurance pool for 105 cities and towns in Montana. This program was created in 1986 when the commercial carriers either abandoned our cities and towns or jacked the rates through the roof. This program has worked well and has provided insurance coverage to members at affordable and predictable rates. This program was written around these limits. We base the premium estimates on these limits and the protection they provide. Failure to pass SB 68 would cost an estimated 34% in premium increases. Exhibit #4. This is a tremendous amount of money for cities and towns. Mr. Hansen urges the Committee to pass SB 68 as it is and not put the limits on another sunset. Mr. Hensen states this is a serious issue and urges the Committee to send SB 68 to the floor with a DO PASS recommendation.

Don Waldron, Montana Rural Education Association, will go on record in support of SB 68.

Bruce Moers, Montana School Board Association, states the need to get rid of the sunset. Schools are also impacted with premium rate increases. Mr. Moers urges consideration and recommends DO PASS SB 68.

Dennis Flich, City of Billings, will go on record in support of SB 68. Mr. Flich told the Committee the current building premium today is $325,075 for liability coverage. If these limits were taken off from the liability, the 34% increase would be over $110,000. This past year Billings had 296 single family building permits issued and if we estimated those at $125,000 market value, it would be about $390 city tax per house. That would just cover the increase in liability insurance.

Opponents' Testimony:
Rusell Hill, Montana Trial Lawyers Association, read from prepared testimony. Exhibit #5.

Questions From Committee Members and Responses:
Senator Grosfield asked Mr. Hill what he would suggest in increasing the limits to. Mr. Hill would not make a suggestion.

Senator Grosfield asked about the Indiana example. Mr. Hill replied he reviewed figures prepared by the tort claims division and between 1986 and 1991 no claims were reduced because of this provision, and is not aware of any in the last two years.

Senator Grosfield questioned Mr.Hill concerning the injuries and damages that result in public assistant. Mr. Hill replied we're not talking about whether or not they can recover, we're talking about a maximum amount of what they can recover.

Senator Towe questioned Mr. Hill about eliminating or continuing the sunset provision. Mr. Hill replied it would weigh in as a factor in a court consideration because if you don't have the sunset provision, the legislation can still come back at any point. Without a sunset provision, the statute and capital amounts are frozen in stone. This is not a flexible statute.

Senator Towe asked Mr. Hill about the 34% increase in higher premiums. Mr. Hill responded insurance crosses risks and costs by refusing to pay premiums or refusing to acknowledge the cost or risks of activities. It doesn't erase those risks or activities, it simply shifts them.

Senator Grosfield questioned Alec Hansen on a guesstimate of what the number would be if we were to lower the liability limits. Mr. Hansen did not have the information.

Chair Yellowtail, asked if we anticipated bills that would address the question of raising or adjusting these limits and if SB 68 does not pass would we require a bill that would extend the sunset. Mr. Hansen responded by saying that it is the legislators prerogative to remove the termination date and end the limits indefinitely or to come up with a new sunset date.

Senator Towe stated SB 68 requires a 2/3 vote, because it is limiting the sovereign community of the State of Montana.

Closing by Sponsor:
Senator Blaylock stated many of us wish we would not have to put limits on SB 68 and anyone who has been injured can be recompensed to the full extent of what the court decides. However, the State of Montana can not do that. Senator Blaylock feels if we do not put limits on SB 68 the state would have nothing. This may be unfair when there has been multiple

injuries, and people cannot be recompensed to the degree that they should be, but this is better than nothing.

HEARING ON SB 64

Opening Statement by Sponsor:
Senator Doherty, District 20, stated SB 64 would exempt employees and attorneys to the registration requirement for process servers. Process servers serve subpoenas to inform people to show up at the Court House in order to give testimony in a civil action. It would be simpler and less expensive for attorney employees to serve the subpoenas. We questioned if SB 64 would provide protection if an employee of an attorney falsely swore to an affidavit that they provided service to someone, and that person didn't show up, would they be subject to contempt of court because they disobeyed a valid courts subpoena. SB 64 provides protection so the person is not subject to the requirements when the employee is acting in the course of their employment. SB 64 is a simplification bill that may result in less expense in litigation. Senator Doherty stated this is a good bill and it should pass.

Proponents' Testimony:
Russell Hill, Montana Trial Lawyers Association will go on record in support of SB 64.

Opponents' Testimony:
Gary Dupuis, G.A.R.D, as civil process service, read from prepared testimony. Exhibit #6.

A letter from a registered processor, Jim Nixon, exhibit #7, was presented in opposition of SB 64.

Richard Rowe, ASAP Services, stated his inability to identify the need for SB 64. The requirement to be a process server is a test which is put forth by the State of Montana. A registered process server enables the citizens of Montana to know who is knocking at their door. A registered processor is diligent and discreet. Employees serving the process for the employer may be prone to be judgmental and will service with prejudice. The registered process server is required by law to serve both parties in litigation. If SB 64 passes in present form it would allow any licensed attorney to broker services of process including those from outside sources to his employee. Mr. Rowe asked to exclude this process served by the employee, and be limited to that which is signed by the attorney he is employed for.

Questions From Committee Members and Responses:
Senator Grosfield questioned Senator Doherty and Mr. Dupois the purpose of a 10 service minimum. No one could answer the

ROLL CALL

SENATE COMMITTEE Judiciary DATE 1-12-93

NAME	PRESENT	ABSENT	EXCUSED
Senator Yellowtail	X		
Senator Doherty	X		
Senator Brown	X		
Senator Crippen	X		
Senator Grosfield	X		
Senator Halligan	X		
Senator Harp			X
Senator Towe	X		
Senator Bartlett	X		
Senator Franklin	X		
Senator Blaylock	X		
Senator Rye	X		
Valencia Lane	X		

FC8

Attach to each day's minutes

ARM TECH

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7919 PEBBLE BEACH DRIVE, SUITE 207, CITRUS HEIGHTS, CA 95610 • (916) 965-8324 • FAX (916) 965-4880

January 8, 1993

SENATE JUDICIARY
EXHIBIT NO. 4
DATE 1-12-93
SB 68

Mr. Alec Hansen
Executive Director
Montana League of Cities & Towns
208 N. Montana Avenue, Suite 201
Helena, MT 59601

JAN 11 1993

RE: **ESTIMATED TORT LIABILITY COST INCREASES**

Dear Mr. Hansen:

Currently in Montana, the statutory limit on tort liability judgements against public entities is $750,000 per person and $1,500,000 per occurrence. We understand that continuation of this damages limitation will be considered during the current Legislative Session.

You have requested Advanced Risk Management Techniques, Inc., as risk management consultants to the Montana Municipal Insurance Authority (MMIA), to estimate the cost to the cities and towns of the MMIA if such tort limit were increased to: 1) $1,000,000 per person/$2,000,000 per occurrence; 2) $1,500,000 per person/$3,000,000 per occurrence; and 3) if there were no limit.

We have prepared our cost estimates based upon the actuarial projections contained in the March, 1992 report of the MMIA's actuarial consultant, Allen Hall, FCAS, MAAA, of Capitol Actuarial Consultants. Our results are summarized below and reflect FY 1992/93 estimated costs.

Tort Limit	Estimated Claims Cost	Increase	Percentage
$ 750,000 / 1.5 million	$ 2,261,000	--	--
$ 1,000,000 / 2 million	$ 2,622,760	$ 361,760	16%
$ 1.5 million / 3 million	$ 2,894,080	$ 633,080	28%
Unlimited	$ 3,029,740	$ 768,740	34%

Please call if you have any questions.

Sincerely,

Gregory L. Trout

Gregory L. Trout
Prinicpal

Montana Trial Lawyers ASSOCIATION

Directors:
Wade Dahood
Director Emeritus
Monte D. Beck
Thomas J. Beers
Michael D. Cok
Michael W. Cotter
Karl J. Englund
Robert S. Fain, Jr.
Victor R. Halverson, Jr.
Gene R. Jarussi
Peter M. Meloy
John M. Morrison
Gregory S. Munro
David R. Paoli
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Governor

January 12, 1993

SENATE JUDICIARY
EXHIBIT NO. 5 0 5
DATE 1-12-93
BILL SB 68

Sen. Bill Yellowtail, Chair
Senate Judiciary Committee
Room 325, State Capitol
Helena, MT 59624

RE: SB 68

Mr. Chair, Members of the Committee:

Thank you for this opportunity to express MTLA's opposition to SB 68, which would eliminate the current sunset provision in Montana law regarding limits on governmental tort liability. MTLA opposes SB 68 because of several concerns:

1. Liability caps operate to disadvantage only the most seriously injured victims of wrongdoing. Only catastrophic injuries and damage will trigger the $750,000/$1.5 million caps contained in Sec. 2-9-108, MCA, and those are precisely the injuries and damages most likely to require public assistance from other sources (including other agencies of government) if they cannot recover from the negligent, even grossly negligent, governmental entities at fault.

2. Tort liability serves two purposes: it not only compensates victims, but it also deters wrongdoing, often far more effectively and efficiently than administrative bureaucracy. The liability caps contained in Sec. 2-9-108, MCA, pervert the essential cost-benefit analysis which government must perform to properly serve its citizens. Governmental operations involving the greatest potential for injury or damage also enjoy, under Sec. 2-9-108, MCA, the greatest insulation from incentives to perform their duties properly. Liability caps, in other words, don't remove economic risks--at best they transfer those risks, and at worst they substantially increase those risks.

3. Ironically, liability caps in the long run may actually increase the amount paid in claims. Indiana, for example, enacted caps in medical-negligence cases in 1975 and soon discovered that nearly 28 percent of Indiana claimants recovered the $500,000 maximum, while only 13 percent of claimants in

neighboring Michigan and Ohio (neither with caps in place) recovered as much as $500,000. Why? Because the Indiana caps not only reduced exposure but also reduced incentives for defendants to vigorously defend claims.

4. The limits on governmental liability contained in Sec. 2-9-108, MCA, may be unconstitutional. The Montana Supreme Court declared similar caps unconstitutional in White v. State of Montana, 661 P.2d 1272 (1983) and Pfost v. State, 713 P.2d 495 (1985). MTLA believes that, when faced with an appropriate challenge, the Court will invalidate Sec. 2-9-108, MCA.

5. Even if the Montana Supreme Court, faced with an appropriate challenge to Sec. 2-9-108, MCA, applied a more lenient standard of review than it applied in White and Pfost, MTLA believes that it would invalidate caps on governmental tort liability which do not include a sunset provision. Such caps, regardless of whether they are rationally related to a legitimate government interest when enacted, impact victims more severely every year because of inflation, cost-of-living increases, and similar factors. Sunset provisions at least guarantee that the Legislature will re-evaluate and adjust, if necessary, the relationship between caps and the governmental interests served by those caps.

6. By repeatedly subjecting Sec. 2-9-108, MCA, to sunset provisions since its enactment in 1986, the Montana Legislature has continually evidenced its intention to remove governmental-liability caps unless advocates of those caps demonstrate that, in its application, the statute appropriately balances the interests of individual citizens and their government. Because so few claims for personal injury or property damage implicate the liability limits contained in Sec. 2-9-108, MCA, that statute has not yet been seriously tested either in court or in public.

7. When they apply, the liability caps contained in Sec. 2-9-108, MCA, will interact unpredictably with other statutory provisions such as joint-and-several liability and comparative negligence. In Colorado, for instance, a jury award to the victim of a 1990 propane gas explosion was first reduced because of statutory caps, then apportioned equally on the basis of fault among four different defendants, two of whom were out of business and uninsured. (See the accompanying March 3, 1992, Wall Street Journal article.)

Montanans and their Legislature have not yet directly confronted the injustice of such liability limits. MTLA respectfully urges this Committee to guarantee that they never have to. However, if this Committee determines to retain the governmental-liability limits contained in Sec. 2-9-108, MCA, MTLA respectfully suggests that it amend SB 68 to increase those limits and provide a new termination date of June 30, 1995.

Thank you for considering these comments. If I can provide additional information or assistance, please notify me.

Respectfully,

Russell B. Hill

Russell B. Hill, Executive Director

BEST COPY
AVAILABLE

THE WALL STREET JOURNAL A1
March 3, 1992

EXHIBIT 5
DATE 1-12-93
SB 68

Tort Reform Test

Overhaul of Civil Law In Colorado Produces Quite Mixed Results

Frivolous Litigants Win Less, But Some Real Victims Are Not Made Whole

Insurers Who Left Return

By MILO GEYELIN
Staff Reporter of THE WALL STREET JOURNAL

DENVER—Everyone talks about legal reform, but Colorado has bet the ranch on it.

State laws here protect ski resorts and dude ranches from lawsuits over accidental injuries. Bars are virtually immune from legal blame for the acts of drunk patrons. Jury awards for pain and suffering top out at $250,000. And defendants can't be forced to ante up more in damages just because they have the deepest pockets.

Some of Vice President Dan Quayle's most controversial proposals to overhaul the civil justice system have found a testing ground here. Shocked by soaring commercial and municipal insurance rates, Colorado began reforming its civil system six years ago. Though many states have enacted laws to limit civil suits and damage awards, none has done more than Colorado.

The idea was to make insurance more available, knock down premiums and give businesses a breather from costly litigation. More than that, reformers wanted to redress what they perceived as an injustice: the prevalence of unpredictable and often unjustified jury awards spurred on by avaricious lawyers working for contingency fees.

Mixed Bag

So what's the verdict? Insurance companies that fled Colorado in droves in the mid-1980s, blaming lawyers and high jury awards, have come back, bringing with them increased competition. Limits on damages have helped lower insurance companies' payouts, leading to some drops in insurance rates. Lawsuits of dubious merit are filed less frequently now because they are harder to prove. Defendants seem less inclined to settle out of court just to avoid the nuisance and risk of litigating.

But, to the dismay even of some reformers, that's not the entire story. Commercial insurance premiums have gone down much less than the business community anticipated. Auto insurance, the major insurance cost for consumers, is actually more expensive than it was before the legal reforms were passed.

Frivolous suits are less likely to reap big awards, but so are lawsuits that nearly anyone would consider valid. Cases involving catastrophic injury to the plaintiff and egregious wrongdoing by the defendant are highlighting the flip side of reform: The most seriously hurt are most likely to see their damages reduced the most under the new laws.

Roxie Lypps's Dilemma

A propane gas explosion in the mountain resort of Crested Butte in March 1990 illustrates some of the unexpected problems with legal reform. Investigators found that the gas supplier, Salgas Inc., had violated more than a dozen state safety regulations. Three people were killed, and 14 were injured. One of the injured, Roxie Lypps, a former teacher and part-time bank employee, was buried beneath bricks and debris and had severe burns over 40% of her body. After two years of painful burn therapy and skin grafts, Ms. Lypps is still unable to work full time and faces an increased risk of skin cancer.

A Denver state court jury awarded Ms. Lypps $1.5 million last November. Of that amount, $486,000 was for punitive damages intended to punish Salgas and its parent, Empire Gas Co. of Lebanon, Mo., for negligence. The rest was compensation for injuries. But in December, a judge was forced to reduce the total amount by more than half. One reason: The jury's award of $600,000 for pain and suffering was over the state limit of $250,000.

That reduced Ms. Lypps's compensatory damages to $621,642. Then another Colorado law came into play: Individual defendants in civil suits can't be forced to pay more than their share of the blame when others at fault have no money. In this case, Empire and Salgas blamed the blast on a repair two previous owners had made. The previous owners were out of business and uninsured. But the jurors weren't told this because another Colorado law prohibits lawyers from disclosing whether defendants have insurance. When the jury divided blame equally among all four companies, the net effect was to cut Ms. Lypps's remaining compensation to $310,822.

'Victims Again'

That, in turn, knocked down the punitive damages because Colorado law prohibits juries from assessing more in damages to punish wrongdoers than they award to compensate victims. Ultimately, Ms. Lypps expects to receive a total of about $316,000 after all her legal fees and other expenses are deducted.

"I'm well beyond [concern over] t money," says Ms. Lypps, 47 years o "But the court system should allow t jury to award what they feel is fair. . . . me it's totally unfair. We end up bei the victims again."

In cases of serious injuries such hers, what remains may not be enough pay for medical care and rehabilitatio Because defendants and their insurers a now insulated from huge damages, cos are transferred to state and federa funded health programs when victims' surance limits run out.

In Longmont, Colo., seven-year-o Leah Speaks has been in a permane coma since last May, when her moth was killed and her sister badly injured an uninsured drunk driver coming fro bar. The driver had knocked back fi beers and six whiskey shots, enough many states to have the bar held lega responsible for the accident.

But in Colorado, damages against ba that serve customers too much to drink a limited to $150,000 and apply only if t bartender acted willfully. The bar in t case settled out of court for the f amount. But it was hardly enough to p for a lifetime of medical and nursing ca Federal Medicaid and disability payme are already footing the bill, says Lea aunt and guardian, Roberta Gies.

Leah Speaks and Roxie Lypps were the kind of victims legal-reform advoca had in mind when they began overhaul the state's civil justice system in 1986. T reformers were aiming at cases such the one involving Oscar Whitlock, a U versity of Denver student who became p alyzed in a trampoline accident durin fraternity party.

Mr. Whitlock blamed the university not supervising the fraternity, and in 1 an appeals court upheld a jury award $5.3 million. Though ultimately overturn decisions like this offended basic beli here that individuals must bear respo bility for their own risks.

Such multimillion-dollar jury awa for seemingly meritless lawsuits also w being blamed for Colorado's deepening surance crisis. Insurers said they could longer accurately predict risk. Through the state, thousands of commercial a municipal liability policies suddenly w canceled in 1985. Rates and deductib were soaring for other businesses and p fessions, while coverage declined. Ru physicians stopped delivering babies wi rates for doctors who performed obste procedures doubled.

Dude ranches accustomed to paying a year per horse for liability cover were suddenly paying $400. Bars and r taurants saw rate increases of 600%. "A of my friends went bare," says J Ziegler, owner of Jackson's Hole Spo Grill in Denver.

Underestimating Risk

Nearly half of Colorado's municipalities had their policies canceled or faced major restrictions. Even cities with excellent risk records felt the brunt. "Basically, there was no reason," says Darrell Barnes, risk manager for Colorado Springs, which had its $5 million liability policy canceled in September 1985. "Our claims never exceeded our premiums."

The problem was national, but Colorado seemed particularly hard hit. Some carriers, blaming lawyers, pulled out of the state altogether. Business groups and insurers banded together to urge reform. "If someone breaks into your house," Aetna Life & Casualty Co. warned in a full-page ad in Denver's Rocky Mountain News, "better hope they don't break a leg. Lawsuit abuse is out of control."

The extent to which lawsuits actually were to blame remains in dispute. Some state officials question whether there really was an insurance crisis. Colorado is among 18 states that filed an antitrust suit in 1988 against more than two dozen insurers. The suit alleged an industry conspiracy to pull out of the commercial and municipal liability market to limit exposure after years of risky underwriting.

Insurance companies deny the charges and are vigorously contesting the suit. But former Colorado insurance commissioner John Kezer says that at least part of the industry's crisis was self-inflicted. For years, insurers had been underpricing policies and "low-balling" risk to grab premium dollars and invest at record-high interest rates, he says. When those rates tumbled in 1985, the industry's cash surplus shrank. A nationwide contraction in insurance availability ensued, coinciding with a rise in claims.

68 Laws in Six Years

Unpredictable jury awards exacerbated the problem, increasing pressure on defendants to settle cases, says former University of Denver law school dean Edward A. Dauer, chairman of a task force that investigated the crisis. Colorado was not experiencing a "litigation explosion," he says, but the insurance industry "needed predictability in risk."

Legal reform became the clarion call, and Colorado's conservative, business-oriented legislature swiftly embraced it. Legislators enacted 68 laws over six years.

Lawyers became more reluctant to bring difficult-to-prove cases. Juries and judges became more skeptical of injury claims and angry about lawsuit abuse. "Juries who sit on auto-accident cases see themselves as more likely the victim of a lawsuit than the victim of an accident," says William Keating, a Denver plaintiffs' lawyer.

Injury cases, as a result, have become more expensive to pursue and difficult to prove, says another plaintiffs' lawyer, Gerald McDermott. "That in and of itself is going to result in some cases that have some merit not being pursued," he argues. For cases involving less than catastrophic injuries, jury verdicts and settlements have dropped.

Some Rates Drop

The laws have most directly helped professions and businesses that were singled out for special protection. Malpractice rates at physician-owned COPIC Insurance Co., Colorado's largest medical malpractice insurer, have dropped 17% since 1988, the year Colorado overhauled its malpractice law to limit liability and damages for doctors.

But, in general, the overall impact on the insurance policyholder has not been great. The insurers have benefited more than individual consumers. Industry losses over the past six years have fallen 30%, while general commercial liability premiums have dropped only 9% overall, according to A.M. Best Co., an independent data gatherer.

At Breiner Construction Co., a small contractor in Denver, commercial liability rates dropped 15% in 1990—the first drop after six years of increases. "It has come down," says Breiner's president, Rosemary Breiner, "but not as much as it went up."

State regulators haven't been able to determine the impact that legal reform has had on lowering insurance rates because commercial insurers don't have to reveal this information in public disclosures. Moreover, Colorado has benefited from an upswing nationally in the insurance industry's business cycle. That alone was largely responsible for bringing back insurers to the state, regulators say.

Meanwhile, automobile insurance rates, a major bone of contention with Colorado residents, have continued to rise steadily. Between 1988 and 1990, rates rose 8% on the average, nationwide. But in Colorado, they rose 9.2% in the same period. "That's what's creating some animosity on the part of myself and some others," grouses Assistant Senate Majority Leader Ray Powers, a conservative Republican who, like some other powerful legislators, is having second thoughts about continued reform efforts.

Highly publicized accidents such as the one at Crested Butte and another at Berthoud Pass, near Denver, are contributing to legislators' caution. In the Berthoud Pass incident, a state road worker clearing fallen rocks from the pass shoved a 6.7-ton boulder down the mountain in 1987, thinking it would roll just a few feet. The rock crashed into a tour bus 725 feet below, killing eight and injuring 25.

One tourist, Marcus Lang, wh[o] blinded and brain-damaged, linger[ed] Denver General Hospital for almost a ye[ar] before he went home to West Germany and died. Under Colorado's governmental im[-] munity law, toughened in 1986 and uphe[ld] by the Colorado Supreme Court last mont[h] the state's total liability for all the victims combined couldn't exceed $400,000. Mr. Lang's medical bills alone exceeded $32[-] 000. (Mr. Lang's estate hasn't receiv[ed] anything as yet from Colorado because the case is still being litigated.)

Many Colorado residents were appall[ed] "I think we did need legal reform, but n[ow] the pendulum has begun to swing back. S[o] the person who needs compensation ca[n] get it," says Republican House Major[ity] Leader Scott McInnis, an early refo[rm] supporter who now is backing off.

One bill he is backing this year woul[d] increase the potential liability of gove[rn]- ment entities. Another would create an o[f]- fice of consumer advocate to more aggr[es]- sively challenge insurance-industry rat[e] requests. Continued legal reform also no[w] faces a more skeptical legislature, sa[id] Republican House Speaker Chuck Berr[y].

Opposition is stiff for a bill the river rafting industry is pushing to protect itself against suits stemming from whitewa[ter] accidents, including "getting lost or fail[ing] to return." There is also little enthusias[m] for a law auto insurers are pushing to re- duce the minimum insurance coverage required in Colorado. Auto insurers are also promoting a companion bill to limit acci- dent victims' ability to sue over injuries.

Two years ago, identical auto-insura[nce] proposals were under debate when Doro[thy] Powers, the wife of the assistant Sen[ate] majority leader, showed up in the sta[te] capitol to lobby in opposition. Encased in body cast to fuse her own fractured sp[ine] from an auto accident, Mrs. Powers, years old, sat before a hearing committe[e] and held up her hospital X-rays. "I nev[er] thought that this could happen to me," she said. "Now I know it can happen to one of you, to anyone in this room, at a given time."

Not surprisingly, says Mr. McI[nnis] both bills died. "This was closer to hom[e]," he says, "Everybody on that committ[ee] knew her."

BEST COPY AVAILABLE

DATE 1-12-93

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: SB 64, SB68, SB 46

Name	Representing	Bill No.	Check One Support	Oppose
Gary A. Dupuis	GARD Inc	64		X
Russell B Hill	Mont Trial Lawyers	68		X
"	"	64	X	
Garth Jacobsen	Sec of State	46	✓	
Gerry Driscoll	DOR	46		
Steve Bahls	U of M Law School	46	✓	
DAN RITTER	MT CHAMBER	46	—	
Brett Dahl	Dept of Admin	68	✓	
Bill Crandall	Dept of Admin	68	✓	
Don Waldron	MREA	68	✓	
Dennis Flick	City of Billings	68	✓	
Bruce M Moerer	MSBA	SB68	X	
Randy Rowe	ASAP SVS.	SB64		X
Richard Rowe	ASAP SVC.	SB64		X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F-10

MINUTES

MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Senator Bill Yellowtail, on January 27, 1993, at 10:05 a.m.

ROLL CALL

Members Present:

Sen. Bill Yellowtail, Chair (D)
Sen. Steve Doherty, Vice Chair (D)
Sen. Sue Bartlett (D)
Sen. Chet Blaylock (D)
Sen. Bob Brown (R)
Sen. Bruce Crippen (R)
Sen. Eve Franklin (D)
Sen. Lorents Grosfield (R)
Sen. Mike Halligan (D)
Sen. John Harp (R)
Sen. David Rye (R)
Sen. Tom Towe (D)

Members Excused: NONE

Members Absent: NONE

Staff Present: Valencia Lane, Legislative Council
Rebecca Court, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:	NONE
Executive Action:	SB 236
	SB 108
	SB 93
	SB 124
	SB 70
	SB 109
	SB 125
	SB 68
	SB 140

EXECUTIVE ACTION ON SB 140

Discussion:

Senator Towe withdrew his motion to amend SB 140. (sb014004.avl) Senator Towe feels the amendment is not good language.

Motion/Vote:
Senator Rye moved SB 140 DO PASS. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 68

Discussion:
Valencia Lane explained the amendments. (Exhibit #5)

Senator Towe told the Committee he would not support the amendments.

Senator Crippen told the Committee that the amendment does not make it permanent.

Valencia Lane told the Committee the amendments make necessary changes to session laws that have been passed in former sessions. The amendments extend the termination date for two more years.

Senator Crippen said the question is whether the Committee wants to eliminate the sunset entirely, or put it on for another two years.

Senator Blaylock said the reason SB 68 is before the legislature is to eliminate the sunset law.

Chair Yellowtail said the present sunset limits the law.

Senator Blaylock said that was correct. Senator Blaylock further stated if that had been the intent, we would have put it in for another two years.

Senator Towe said that is what SB 68 with the amendment does.

Senator Blaylock told the Committee he is not in favor of the amendment. Senator Blaylock said if in two years the amounts need to be changed, it could be done. Senator Blaylock told the committee he would resist the amendments.

Senator Towe said he agrees with Senator Blaylock for reasons stated. Senator Towe said action should not be taken, without Senator Doherty who wants to advocate for the amendment.

Chair Yellowtail told the Committee there would be no action on SB 68 without Senator Doherty being present who is the sponsor of the bill.

Senator Grosfield reminded the Committee about the amendment

requiring the 2/3 vote, which needed to be discussed when action was taken on SB 68.

EXECUTIVE ACTION ON SB 9

Motion:
Senator Halligan moved SB 9 DO NOT PASS.

Discussion:
Senator Towe asked the committee to hold up on Senator Halligan's motion. Senator Towe said there may be some problems, but the part of SB 9 that deals with jurisdiction over someone who does not reside in the district is critical. Senator Towe told the Committee in small claims and justice courts, if the individual does not live in the district they could not be sued, which is a problem and grossly unfair. Senator Towe said other states take advantage of Montana in that regard, and that is not right. Senator Towe said for those reasons, SB 9 should be considered.

Senator Halligan said he would consider the amendments if they were voted on separately. Senator Halligan said the reason for limited jurisdiction, is because the courts are court of limited jurisdiction. Senator Halligan said the costs of bringing witnesses to testify in small claims courts would be costly.

Senator Towe told the Committee the problem came to his attention because of the inability to sue someone outside of the state. Senator Towe believe the Justice Court's support the amendments.

Senator Halligan withdrew his motion to DO NOT PASS SB 9.

Motion:
Senator Towe moved to amend SB 9. (Exhibit #6)

Discussion:
Senator Towe explained the amendments.

Senator Halligan asked to divide the motion. Senator Halligan said he did not want to vote on the amendments dealing with allowing paralegals to represent people in court. Senator Halligan said allowing people to be represented by paralegals would cause alot of problems.

Valencia Lane told the Committee the jurisdictional amounts would be changed in the Code Commissioner Bill.

Senator Towe recommended passing all the amendments, then striking the amendments the Committee is not sure about.

Senator Halligan withdrew his motion.

was enacted by the legislature last session. Subsection D allows a school employee to be a third party in an interview. Ms. Lane said it would be possible for a school employee to be the third party.

Chair Yellowtail told the Committee SB 9 would be taken up at the next executive session.

EXECUTIVE ACTION ON SB 70

Discussion:
Senator Brown told the Committee SB 70 makes it necessary for the Department of Family Services to consult with judges about orders concerning their department.

Senator Brown explained the amendments. (Exhibit #7)

Valencia Lane said after the hearing on SB 70 Judge McClain and Ann Guilkey, Department of Family Services, prepared and agreed to the amendments.

Motion:
Senator Towe moved to amend SB 70.

Discussion:
Senator Halligan told the Committee SB 70 would allow lawyers to argue for a parent to receive treatment, so they would not lose their children. If a judge felt treatment was needed, treatment would be required. If a person was indigent, the treatment would be paid by the Department of Family Services. Senator Halligan said SB 70 would still allow lawyers to state their case.

Vote:
The motion to amend SB 70 CARRIED UNANIMOUSLY.

Motion/Vote:
Senator Brown moved SB 70 DO PASS AS AMENDED. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 68

Motion:
Senator Doherty moved to amend SB 68.

Discussion:
Senator Doherty told the Committee the reason for the amendment was to extend the limit for another two years, instead of getting rid of the sunset entirely. Senator Doherty said special treatment has been given to the government, therefore this treatment should be looked at every two years to decide whether to extend it or not.

Chair Yellowtail asked Senator Doherty if the argument was made that the court may regard the legislatures continued interest in reviewing the amendment. Senator Doherty said yes.

Senator Halligan said if records were kept of victims economic data, the state could balance the need for recovery and the needs of the state. Senator Halligan said there was no testimony on the economic impact of victims. There needs to be substantial evidence in the record to show what the rewards were for the victim. Senator Halligan further stated he did not like the amendment.

Senator Blaylock said he also resists the amendments. Removing the sunset in SB 68, was done so it does not have to be revisited every two years. Senator Blaylock said if the people want the limits raised or lowered, the legislature can look at it at that time. Otherwise as far as SB 68 is concerned it should pass.

Senator Grosfield asked Valencia Lane to explain about amendment 14.

Ms. Lane said the amendment derives from the fact that the constitution requires a 2/3 vote. SB 68 would not be valid unless it passed by a 2/3 vote or greater. Ms. Lane said in the constitution, the vote is required to limit immunity. In the 1986 special session when these limits were first imposed, a 2/3 vote was required in the bill. In the 1987 session, the limits were extended for two more years and there was a statement in the bill that a 2/3 vote may be required. In the 1991 session the limits were extended again, and there was no statement included in the bill. Ms. Lane said it is Greg Petesch's belief that a 2/3 vote is required when immunity is being limited. Ms. Lane said Mr. Petesch believes a limitation on recovery is not immunity. Someone could still sue, but they are limited to their recovery. Ms. Lane said the Committee may not agree with the interpretation, but to be on the safe side a 2/3 requirement should be added to SB 68. Ms. Lane said if SB 68 passed without a 2/3 vote, it could be challenged in court on those grounds. The court would decide whether immunity was being limited, was equivalent to limiting recovery.

Senator Towe said he does not agree with Greg Petesch. Senator Towe said if the amount of recovery is limited, the immunity of a public agency is limited. Senator Towe feels amendment 14 should be adopted into SB 68. Senator Towe said if the motion to adopt all the amendments fail, the Committee should adopt amendment 14.

If the motion on the floor, to adopt all the amendments passes, amendment 14 would already be adopted. Senator Towe also stated he is against the amendments. Senator Towe said there is little concern about future legal challenges, and the people in the state of Montana support SB 68. Senator Towe does not feel that the legislature should have to look at the bill every two years.

Senator Doherty told the Committee it is a rare and extraordinary thing for the legislature to go back to the protection of the sovereign. Senator Doherty said it is something we ought to do seriously, therefore we should be patient and do it every two years.

Vote:
The motion to amend SB 68 FAILED with Senator Doherty and Yellowtail voting YES.

Motion/Vote:
Senator Towe moved amendment 14 to amend SB 68 on the 2/3 vote requirement. Motion CARRIED to amend SB 68.

Motion/Vote:
Senator Blaylock moved SB 68 DO PASS AS AMENDED. The motion CARRIED with Senator Doherty voting NO.

EXECUTIVE ACTION ON SB 124

Motion/Vote:
Senator Towe moved SB 124 DO PASS. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 93

Motion/Vote:
Senator Halligan moved SB 93 DO PASS. The motion CARRIED with Senator Rye voting NO.

EXECUTIVE ACTION ON SB 108

Discussion:
Senator Towe asked the Committee for discussion concerning the fingerprints of juveniles. Senator Towe said with the passage of SB 108, fingerprints and records would be kept by the Justice Department. Senator Towe said that would be a policy change in the law dealing with criminal justice information systems. Senator Towe said he had problems with that issue. Senator Towe told the Committee that the bill was originally drafted to

ROLL CALL

SENATE COMMITTEE Judiciary DATE 1-27-93

NAME	PRESENT	ABSENT	EXCUSED
Senator Yellowtail	X		
Senator Doherty	X		X
Senator Brown	X		
Senator Crippen	X		
Senator Grosfield	X		
Senator Halligan	X		
Senator Harp	X		
Senator Towe	X		
Senator Bartlett	X		
Senator Franklin	X		
Senator Blaylock	X		
Senator Rye	X		

FC8

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

January 27, 1993

MR. PRESIDENT:
We, your committee on Judiciary having had under consideration Senate Bill No. 68 (first reading copy -- white), respectfully report that Senate Bill No. 68 be amended as follows and as so amended do pass.

Signed: Wm Yellowtail
Senator William "Bill" Yellowtail, Chair

That such amendments read:

1. Page 2, lines 13 and 14.
Strike: section 4 in its entirety
Insert: " NEW SECTION. **Section 4. Two-thirds vote.** Because [this act] amends and extends the effect of a statute imposing limited immunity on governmental entities, Article II, section 18, of the Montana constitution requires a two-thirds vote of the members of each house of the legislature for passage."

-END-

m - Amd. Coord.
Sec. of Senate

211449SC.Sma

CLERICAL

S Bill No. 68

Date: 1-28-93

Time: 1105 am

MER
(Legislative Council Staff)

☑ (S) / H Standing Committee: Judiciary

(Chairman) Wm Yellowtail

☐ S / H Committee of the Whole

(Sponsor)

In accordance with the Rules of the Montana Legislature, the following clerical errors may be corrected:

#1 Page 2, lines 13 and 14

Following: line 14

Strike: section 4 in its entirety

Insert: "NEW SECTION Section 4. Two-thirds ... passage."

Renumber subsequent section

An objection to these corrections may be registered by the Secretary of the Senate, the Chief Clerk of the House, or the sponsor by filing the objection in writing within 24 hours after receipt of this notice.

Amendments to Senate Bill No. 68
First Reading Copy (white)

Requested by Senator Doherty
For the Committee on Judiciary

Prepared by Valencia Lane
January 13, 1993

SENATE JUDICIARY
EXHIBIT NO. 5
DATE 1-27-93
BILL NO. SB68

1. Title, line 5.
Strike: "ELIMINATING"
Insert: "EXTENDING"

2. Title, line 6.
Strike: "OF THE LIMITATION"
Insert: "DATE FOR LIMITATIONS"
Following: "GOVERNMENTAL"
Insert: "LIABILITY FOR DAMAGES IN"

3. Title, line 7.
Strike: "LIABILITY"
Insert: "ACTIONS"

4. Title, lines 9 and 10.
Following: "1991;" on line 9
Strike: "REPEALING SECTION 3, CHAPTER 22, SPECIAL LAWS OF JUNE 1986;"

5. Page 1, line 16.
Following: "~~date~~"
Insert: "-- termination date"

6. Page 1, line 18.
Following: "~~1987~~"
Insert: ", except that section 3 is effective July 1, 1995"

7. Page 1, line 19.
Following: "~~1987.~~"
Insert: "Sections 1 and 2 of this act terminate on June 30, 1995."

8. Page 1, line 24.
Following: "~~date~~"
Insert: "-- termination date"

9. Page 2, line 1.
Following: "~~1991~~"
Insert: ", except that section 3 is effective July 1, 1995"

10. Page 2, line 2.
Following: "~~1991.~~"
Insert: "Sections 1 and 2 of this act terminate on June 30, 1995."

11. Page 2, line 9.

Following: "~~date~~"
Insert: "-- termination date"

12. Page 2, line 11.
Following: "~~1993~~"
Insert: ", except that section 3 is effective July 1, 1995"

13. Page 2, line 12.
Following: "~~1993.~~"
Insert: "Sections 1 and 2 of this act terminate on June 30, 1995."

14. Page 2, lines 13 and 14.
Strike: section 4 in its entirety
Insert: " NEW SECTION. **Section 4. Two-thirds vote.** Because [this act] amends and extends the effect of a statute imposing limited immunity on governmental entities, Article II, section 18, of the Montana constitution requires a two-thirds vote of the members of each house of the legislature for passage."

BILL NO	REFERRED	HEARING	OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE	REREFERRED	DATE READ
SB0023	AKLESTAD, GARY 2/23	3/16	REVISE LAW ON REMOVAL OF CHILDREN FROM THE HOME IN CASES OF ABUSE OR NEGLECT CONCUR AS AMENDED 3/26 VOTE: 12-6		3/27
SB0024	BLAYLOCK, CHET 1/12	1/21	CLARIFYING EMPLOYER-PAID INS. PREMIUMS ARE NOT MARITAL DISCRIMINATION CONCUR 1/21 VOTE: 18-0		1/22
SB0029	TOWE, TOM 1/20	1/29	PENALTY FOR GANG RAPE CONCUR AS AMENDED 2/3 VOTE: 14-4		2/05
SB0037	TOWE, TOM 1/30	3/02	CREATE OFFENSE OF STALKING AND PROVIDE FOR RESTRAINING ORDERS CONCUR AS AMENDED 3/17 VOTE: 18-0		3/18
SB0042	HARP, JOHN 1/09	1/13	CLARIFY SERVICE OF PROCESS IN ACTIONS AGAINST THE STATE CONCUR 3/9 VOTE: 18-0		1/14
SB0046	HALLIGAN, MIKE 2/02	3/09	UNIFORM PARTNERSHIP ACT CONCUR 3/9 VOTE: 18-0		3/10
SB0051	BIANCHI, DON 3/01		APPLICANT FOR GAMBLING OPERATOR'S LICENSE MAY BE GRANTED TEMPORARY AUTHORITY N/A VOTE:	BUSINESS & LABOR	
SB0064	DOHERTY, STEVE 1/18	1/22	EXEMPT ATTORNEYS' EMPLOYEES FROM PROCESS SERVER REGISTRATION REQUIREMENTS TABLED ON 01/27 VOTE: 14-3		
SB0068	BLAYLOCK, CHET 2/01	3/09	REMOVE TERMINATION OF GOVERNMENTAL TORT LIABILITY LIMITS CONCUR 3/16 VOTE: 17-1		3/12
SB0070	BROWN, BOB 2/01	3/10	COURT DISPOSITION OF TROUBLED YOUTH REQUIRING DEPT. FAM. SERV. TO SPEND $ CONCUR 3/16 VOTE: 17-1		3/17
SB0078	GAGE, DEL 1/28	2/04	CITY ATTY. MAY REPRESENT STATE IN CERTAIN DUI LICENSE SUSPENSION HEARINGS CONCUR AS AMENDED 3/26 VOTE: 13-5		3/27
SB0093	BECK, TOM 1/30	3/04	ELIMINATE HANGING AS FORM OF CAPITAL PUNISHMENT CONCUR 3/4 VOTE: 10-8		3/04

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN RUSSELL FAGG,** on March 9, 1993, at 9:00 a.m.

ROLL CALL

Members Present:

Rep. Russ Fagg, Chairman (R)
Rep. Randy Vogel, Vice Chairman (R)
Rep. Dave Brown, Vice Chairman (D)
Rep. Ellen Bergman (R)
Rep. Jody Bird (D)
Rep. Vivian Brooke (D)
Rep. Bob Clark (R)
Rep. Duane Grimes (R)
Rep. Scott McCulloch (D)
Rep. Jim Rice (R)
Rep. Angela Russell (D)
Rep. Tim Sayles (R)
Rep. Liz Smith (R)
Rep. Bill Tash (R)
Rep. Howard Toole (D)
Rep. Tim Whalen (D)
Rep. Diana Wyatt (D)

Members Excused: Rep. Karyl Winslow (R)

Members Absent: None

Staff Present: John MacMaster, Legislative Council
Beth Miksche, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 46, SB 68, SB 336, SB 397
Executive Action: SB 46, SB 397, SB 37

HEARING ON SB 46

Opening Statement by Sponsor:

SEN. MIKE HALLIGAN, Senate District 29, Missoula, said the 1947 Uniform Partnership Act (UPA) has been changed constantly since then by case law. This is extremely important legislation with

REP. SAYLES asked **Professor Bahls** to clarify the language on page 33, subsection (b), lines 6-9. **Professor Bahls** agreed that this language is unclear but explained that it is dealing with the general standards of partnership. He said that the language is from the UPA, and **Professor Bahls** assured the committee there are no words missing.

Closing by Sponsor: None

HEARING ON SB 68

Opening Statement by Sponsor:

SEN. CHET BLAYLOCK, Senate District 43, Laurel, said that SB 68 removes the sunset provision on tort liability for the state of Montana. Before the 1972 constitution, the State of Montana could not be sued unless a person was able to get the Board of Examiners to read the lawsuit. Nor could a person sue any of the subdivisions of the State of Montana. The new constitution removed that prohibition and provided no limits on the amount that could be collected. Therefore, it was costing the state millions of dollars in lawsuits, and it became obvious that the state simply couldn't afford losing that kind of money. Lawmakers have been trying since 1983 to find language that would meet Supreme Court tests. The new liability limits include $750,000 per claim and $1,500,000 per accident.

SB 68 removes the sunset law to make this a permanent law of the state of Montana that does not have to be renewed in two years.

Proponents' Testimony:

Bill Gianoulias, Chief Defense Counsel, Department of Administration, discussed the Supreme Court cases which have led to this proposed legislation.

Stan Kaleczyc, Helena attorney in private practice, representing Montana Municipal Insurance Authority (MMIA), said that MMIA is the group self-insurance program for cities and towns. It has two programs: a group workers' compensation self-insurance program and a liability self-insurance program. Approximately 110 cities and towns participate in that liability program in which rates are determined annually by an actuary. The actuary responsible for setting those rates has relied upon the court limits to determine the liability. In anticipation of this bill, MMIA asked the risk manager and actuary to determine what impact there would be if there were no court payments on their program. The result is an estimate of a 34 percent increase in premiums paid by cities and towns if the court minutes were to be abolished. Obviously, these are fiscal impacts, not only for state government but for local governments as well.

Alec Hansen, League of Cities and Towns, said they support **Mr. Gianoulias'** and **Mr. Kaleczyc's** testimony. They encourages do pass on SB 68.

Opponents' Testimony:

Russell Hill, Executive Director, Montana Trial Lawyers Association, presented written testimony. **EXHIBITS 6** and **7.**

Questions From Committee Members and Responses:

REP. RICE asked **Mr. Gianoulias** to highlight the issue of the sunset provision and its relationship to the constitutionality of this legislation. **Mr. Hill** said that it was his understanding that the Montana Supreme Court said that, even if the state had applied a rational basis test in this case, the previous statute would be unconstitutional. The second thing is, a rational basis test is a fairly lenient test, and all the legislature has to do is show that there's a rational basis between a law that is passed and the effect it is trying to achieve.

Closing by Sponsor:

SEN. BLAYLOCK said that, if the legislature believes that constitutionality caps would be eroding because of inflation and the passage of time, there is nothing to stop the legislature from raising caps. He does not want to revisit the legislation every two years.

HEARING ON SB 336

Opening Statement by Sponsor:

SEN. BILL YELLOWTAIL, Senate District 50, Wyola, said that SB 336 addresses the matter of judicial salaries in Montana. In spite of the high regard and esteem in which we hold judicial government, Montana compensates its judges at the lowest (50th) rate of any state in the United States. Montana sets its salaries for the judicial branch in statute and places the judges in the position of coming on bended knee to the legislature each biennium to plead the case for their salaries. Base salary increases were legislated in the last two sessions to the District Court judges and Supreme Court justices that have not kept up with neighboring states much less the national average. In view of the state's financial situation in this biennium, the judges have come forth with a very humble and modest approach and have asked merely for salary increases that are the same as the average increase provided for state employees.

HOUSE OF REPRESENTATIVES

Judiciary COMMITTEE

ROLL CALL DATE 3-9-93

NAME	PRESENT	ABSENT	EXCUSED
Rep. Russ Fagg, Chairman	✓		
Rep. Randy Vogel, Vice-Chair	✓		
Rep. Dave Brown, Vice-Chair	✓		
Rep. Jodi Bird	✓		
Rep. Ellen Bergman	✓		
Rep. Vivian Brooke	✓		
Rep. Bob Clark	✓		
Rep. Duane Grimes	✓		
Rep. Scott McCulloch	✓		
Rep. Jim Rice	✓		
Rep. Angela Russell	✓		
Rep. Tim Sayles	✓		
Rep. Liz Smith	✓		
Rep. Bill Tash	✓		
Rep. Howard Toole	✓		
Rep. Tim Whalen	✓		
Rep. Karyl Winslow			✓
Rep. Diana Wyatt	✓		

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EXHIBIT 6
DATE 3-9-93
SB 68

Montana Trial Lawyers ASSOCIATION

Directors:
Wade Dahood
Director Emeritus
Monte D. Beck
Thomas J. Beers
Michael D. Cok
Michael W. Cotter
Karl J. Englund
Robert S. Fain, Jr.
Victor R. Halverson, Jr.
Gene R. Jarussi
Peter M. Meloy
John M. Morrison
Gregory S. Munro
David R. Paoli
Paul M. Warren
Michael E. Wheat

Executive Office
#1 Last Chance Gulch
Helena, Montana 59601
Tel: 443-3124

Officers:
Thomas J. Beers
President
Monte D. Beck
President-Elect
Gregory S. Munro
Vice President
Michael E. Wheat
Secretary-Treasurer
William A. Rossbach
Governor
Paul M. Warren
Governor

March 9, 1993

Rep. Russell Fagg, Chair
House Judiciary Committee
Room 312-1, State Capitol
Helena, MT 59624

RÉ: SB 68

Mr. Chair, Members of the Committee:

Thank you for this opportunity to express MTLA's opposition to SB 68, which would eliminate the current sunset provision in Montana law regarding limits on governmental tort liability. MTLA opposes SB 68 because of several concerns:

1. Liability caps operate to disadvantage only the most seriously injured victims of wrongdoing. Only catastrophic injuries and damage will trigger the $750,000/$1.5 million caps contained in Sec. 2-9-108, MCA, and those are precisely the injuries and damages most likely to require public assistance from other sources (including other agencies of government) if they cannot recover from the negligent, even grossly negligent, governmental entities at fault.

2. Tort liability serves two purposes: it not only compensates victims, but it also deters wrongdoing, often far more effectively and efficiently than administrative bureaucracy. The liability caps contained in Sec. 2-9-108, MCA, pervert the essential cost-benefit analysis which government must perform to properly serve its citizens. Governmental operations involving the greatest potential for injury or damage also enjoy, under Sec. 2-9-108, MCA, the greatest insulation from incentives to perform their duties properly. Liability caps, in other words, don't remove economic risks--at best they transfer those risks, and at worst they substantially increase those risks. And if such caps, without reducing a single Montana award since their enactment, <u>have</u> weakened the deterrent effect of civil liability and contributed to additional accidents, then the legislation has resulted in a net loss to the state.

3. Ironically, liability caps in the long run may actually increase the amount paid in claims. Indiana, for example, enacted caps in medical-negligence cases in 1975 and soon discovered that nearly 28 percent of Indiana claimants recovered the $500,000 maximum, while only 13 percent of claimants in neighboring Michigan and Ohio (neither with caps in place) recovered as much as $500,000. Why? Because the Indiana caps not only reduced exposure but also reduced incentives for defendants to vigorously defend claims.

4. The limits on governmental liability contained in Sec. 2-9-108, MCA, may be unconstitutional. The Montana Supreme Court declared similar caps unconstitutional in White v. State of Montana, 661 P.2d 1272 (1983) and Pfost v. State, 713 P.2d 495 (1985). MTLA believes that, when faced with an appropriate challenge, the Court will invalidate Sec. 2-9-108, MCA.

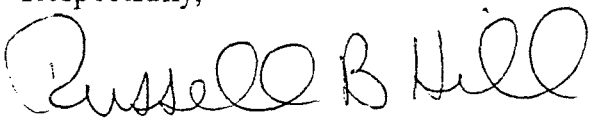
5. Even if the Montana Supreme Court, faced with an appropriate challenge to Sec. 2-9-108, MCA, applied a more lenient standard of review than it applied in White and Pfost, MTLA believes that it would invalidate caps on governmental tort liability which do not include a sunset provision. Such caps, regardless of whether they are rationally related to a legitimate government interest when enacted, impact victims more severely every year because of inflation, cost-of-living increases, and similar factors. Sunset provisions at least guarantee that the Legislature will re-evaluate and adjust, if necessary, the relationship between caps and the governmental interests served by those caps.

6. By repeatedly subjecting Sec. 2-9-108, MCA, to sunset provisions since its enactment in 1986, the Montana Legislature has continually evidenced its intention to remove governmental-liability caps unless advocates of those caps demonstrate that, in its application, the statute appropriately balances the interests of individual citizens and their government. Because so few claims for personal injury or property damage implicate the liability limits contained in Sec. 2-9-108, MCA, that statute has not yet been seriously tested either in court or in public.

Montanans and their Legislature have not yet directly confronted the injustice of such liability limits. MTLA respectfully urges this Committee to guarantee that they never have to. However, if this Committee determines to retain the governmental-liability limits contained in Sec. 2-9-108, MCA, MTLA respectfully suggests that it amend SB 68 to increase those limits and provide a new termination date of June 30, 1995.

Thank you for considering these comments. If I can provide additional information or assistance, please notify me.

Respectfully,



Russell B. Hill
Executive Director

EXHIBIT 1
DATE 3-9-93
SB 68

Amendments to Senate Bill No. 68
First Reading Copy (white)

Requested by Senator Yellowtail
For the Committee on Judiciary

Prepared by Valencia Lane
January 13, 1993

1. Title, line 5.
Strike: "ELIMINATING"
Insert: "EXTENDING"

2. Title, line 6.
Strike: "OF THE LIMITATION"
Insert: "DATE FOR LIMITATIONS"
Following: "GOVERNMENTAL"
Insert: "LIABILITY FOR DAMAGES IN"

3. Title, line 7.
Strike: "LIABILITY"
Insert: "ACTIONS"

4. Title, lines 9 and 10.
Following: "1991;" on line 9
Strike: "REPEALING SECTION 3, CHAPTER 22, SPECIAL LAWS OF JUNE 1986;"

5. Page 1, line 16.
Following: "~~date~~"
Insert: "-- termination date"

6. Page 1, line 18.
Following: "~~1987~~"
Insert: ", except that section 3 is effective July 1, 1995"

7. Page 1, line 19.
Following: "~~1987.~~"
Insert: "Sections 1 and 2 of this act terminate on June 30, 1995."

8. Page 1, line 24.
Following: "~~date~~"
Insert: "-- termination date"

9. Page 2, line 1.
Following: "~~1991~~"
Insert: ", except that section 3 is effective July 1, 1995"

10. Page 2, line 2.
Following: "~~1991.~~"
Insert: "Sections 1 and 2 of this act terminate on June 30, 1995."

11. Page 2, line 9.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Judiciary COMMITTEE BILL NO. SB 68

DATE March 9, 1993 SPONSOR(S) C. Boylock

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Bill Gianoulias	Regional Admin	X	
STAN KALCZYC	MT MUNICIPAL INSURANCE AUTHORITY	X	
Russell B Hill	MT Trial Lawyers		✓
DENNIS FLICK	City of BILLINGS	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN RUSSELL FAGG,** on March 10, 1993, at 9:00 a.m.

ROLL CALL

Members Present:

Rep. Russ Fagg, Chairman (R)
Rep. Randy Vogel, Vice Chairman (R)
Rep. Dave Brown, Vice Chairman (R)
Rep. Ellen Bergman (R)
Rep. Jody Bird (D)
Rep. Vivian Brooke (D)
Rep. Bob Clark (R)
Rep. Duane Grimes (R)
Rep. Scott McCulloch (D)
Rep. Jim Rice (R)
Rep. Angela Russell (D)
Rep. Tim Sayles (R)
Rep. Liz Smith (R)
Rep. Bill Tash (R)
Rep. Howard Toole (D)
Rep. Tim Whalen (D)
Rep. Diana Wyatt (D)

Members Excused: Rep. Randy Vogel (R)
Rep. Karyl Winslow (R)

Members Absent: None

Staff Present: John MacMaster, Legislative Council
Beth Miksche, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 150, SB 70
Executive Action: SB 150, SB 336, SB 37, SB 173, SB 68

HEARING ON SB 150

Opening Statement by Sponsor:

SEN. SUE BARTLETT, Senate District 23, Helena, said that SB 150 is an act conforming with federal law the state child support enforcement laws relating to the child support guidelines and

Discussion:

Mr. MacMaster explained a clerical amendment. On page 10, there was a word left out on line 1. After the word "order" on line 1, insert the word "is."

Motion/Vote: **REP. TOOLE** moved the clerical amendment. Motion carried unanimously.

Motion/Vote: **REP. WHALEN MOVED SB 150 BE CONCURRED IN AS AMENDED.** Motion carried unanimously 16-0. **REPS. VOGEL** and **WINSLOW** were excused from voting.

EXECUTIVE ACTION ON SB 173

Motion/Vote: **REP. BROWN MOVED SB 173 BE CONCURRED IN.** Motion carried 15-1 with **REP. CLARK** voting no. **REPS. WINSLOW** and **VOGEL** were excused.

EXECUTIVE ACTION ON SB 68

Motion: **REP. BROWN MOVED SB 68 BE NOT CONCURRED IN.**

Discussion:

REP. WHALEN opposes the do not pass motion and offered an amendment to include a sunset provision for another four years as two years is too short. He said the observation made by **Russell Hill, Montana Trial Lawyers Association**, is that this should be reviewed periodically, and this is a mechanism for doing that.

Motion: **REP. GRIMES MADE A SUBSTITUTE MOTION THAT SB 68 BE CONCURRED IN.**

Motion: **REP. WHALEN** moved an amendment to include a sunset provision for four years rather than two.

Discussion:

CHAIRMAN FAGG doesn't believe that amendment is necessary because the legislature can review the cap every time it meets. Eventually, the legislature will review the cap and decide to raise it.

Vote: **REP. WHALEN'S** amendment to include a sunset provision failed 11-6 with **CHAIRMAN FAGG, REPS. VOGEL, BERGMAN, CLARK, GRIMES, MCCULLOCH, SAYLES, SMITH, TASH, WINSLOW,** and **WYATT** voting no. **REP. RICE** was absent.

Vote: **SB 68 BE CONCURRED IN.** Motion carried 14-4 with **REPS. BROWN, BROOKE, RUSSELL,** and **SMITH** voting no.

HOUSE OF REPRESENTATIVES

Judiciary COMMITTEE

ROLL CALL DATE 3-10-93

NAME	PRESENT	ABSENT	EXCUSED
Rep. Russ Fagg, Chairman	✓		
Rep. Randy Vogel, Vice-Chair			✓
Rep. Dave Brown, Vice-Chair	✓		
Rep. Jodi Bird	✓		
Rep. Ellen Bergman	✓		
Rep. Vivian Brooke	✓		
Rep. Bob Clark	✓		
Rep. Duane Grimes	✓		
Rep. Scott McCulloch	✓		
Rep. Jim Rice	✓		
Rep. Angela Russell	✓		
Rep. Tim Sayles	✓		
Rep. Liz Smith	✓		
Rep. Bill Tash	✓		
Rep. Howard Toole	✓		
Rep. Tim Whalen	✓		
Rep. Karyl Winslow			✓
Rep. Diana Wyatt	✓		

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HOUSE STANDING COMMITTEE REPORT

March 11, 1993

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 68 (third reading copy -- blue) be concurred in .

Signed: Russell C. Fagg
Russ Fagg, Chair

Carried by: Rep. Toole

Committee Vote:
Yes 14, No 4.

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HOUSE OF REPRESENTATIVES

Judiciary COMMITTEE

ROLL CALL VOTE

DATE 3-10-93 BILL NO. SB68 NUMBER 18

MOTION: SB68 Be concurred IN 14-4

NAME	AYE	NO
Rep. Russ Fagg, Chairman	✓	
Rep. Randy Vogel, Vice-Chair	✓	
Rep. Dave Brown, Vice-Chair		✓
Rep. Jodi Bird	✓	
Rep. Ellen Bergman	✓	
Rep. Vivian Brooke		✓
Rep. Bob Clark	✓	
Rep. Duane Grimes	✓	
Rep. Scott McCulloch	✓	
Rep. Jim Rice	✓	
Rep. Angela Russell		✓
Rep. Tim Sayles	✓	
Rep. Liz Smith		✓
Rep. Bill Tash	✓	
Rep. Howard Toole	✓	
Rep. Tim Whalen	✓	
Rep. Karyl Winslow	✓	
Rep. Diana Wyatt	✓	
	14	4

HOUSE OF REPRESENTATIVES

Judiciary COMMITTEE

ROLL CALL VOTE

DATE 3-10-93 BILL NO. SB68 NUMBER 17

MOTION: Rep Whalen's Amendment Fails 11-6

NAME	AYE	NO
Rep. Russ Fagg, Chairman		✓
Rep. Randy Vogel, Vice-Chair		✓
Rep. Dave Brown, Vice-Chair	✓	
Rep. Jodi Bird	✓	
Rep. Ellen Bergman		✓
Rep. Vivian Brooke	✓	
Rep. Bob Clark		✓
Rep. Duane Grimes		✓
Rep. Scott McCulloch		✓
Rep. Jim Rice	Absent	
Rep. Angela Russell	✓	
Rep. Tim Sayles		✓
Rep. Liz Smith		✓
Rep. Bill Tash		✓
Rep. Howard Toole	✓	
Rep. Tim Whalen	✓	
Rep. Karyl Winslow		✓
Rep. Diana Wyatt		✓
	6	11